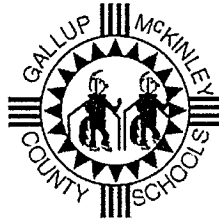


GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS

Ray Arsenault
SUPERINTENDENT

KIM BROWN
Asst. Supt. of Business Services

THERESA MARIANO
Asst. Supt. of Personnel Services



MAX PEREZ
Asst. Supt. of Learning Services

LEONARD HASKIE
Asst. Supt. of Support Services

"GROWING STUDENTS TO BE PRODUCTIVE CITIZENS IN A MULTI-CULTURAL SOCIETY"

MEMORANDUM

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

From: Ray Arsenault, Superintendent
Gallup McKinley County Schools

Date: May 20, 2011

Subject: **Request for Review of a decision made by USAC – CC Docket Nos. 96-45 and 02-6**

Dear Ms. Dortch:

Request for Review of a decision made by USAC – CC Docket Nos. 96-45 and 02-6

Decision being appealed: "Administrator's Decision on Appeal – Funding Year 2001-2002," dated May 10, 2011; "Demand Payment Letter – Second Request: and "Notice of Withholding Action," both dated May 16, 2011.

Form 471 Number: 248147

FRN: 606006

Funding Year: 2001 (7/1/2001 – 6/30/2002)

Billed Entity Number: 143257

SPIN: 143005607

Service Provider Name: International Business Machines Corporation (IBM)

Applicant: Gallup-McKinley County School District (GMCS)
640 S Boardman Ave
P.O. Box 1318
Gallup, NM 87305-1318

Applicant's Contact Person: George McDonald
Phone: (516) 801-7820
Fax: (516) 801-7830
E-Mail: gm.review@e-ratecentral.com

While the history of this FY 2001 FRN is long and convoluted, the actions that are relevant to this immediate request are summarized below.

On January 19, 2011, USAC issued an "Administrator's Decision on Appeal – Funding Year 2001-2002" that reduced the committed amount on this FRN to \$884,621.89, an action that would trigger a recovery of \$35,596.06. In a letter dated March 14, 2011 (and filed on March 15), GMCS appealed the January 19th Administrator's Decision. On March 14, 2011, USAC issued a Demand Payment Letter, demanding payment of \$35,596.06 from GMCS for FRN 606006.

FCC precedent is that recovery is on hold if there is a pending appeal. Our consultant, George McDonald, contacted Ms. Cyndi Beach of USAC on March 16, 2011, about the Demand Payment Letter. Ms. Beach responded by e-mail on March 31, 2011 (attached), indicating that GMCS does "not need to do anything, we now have this FRN on USAC Appeal Hold."

On May 10, 2011, USAC issued a new "Administrator's Decision on Appeal – Funding Year 2001-2002," denying the appeal we had filed with USAC on March 15, 2011. GMCS intended to appeal that new Administrator's Decision to the Commission by the 60-day deadline of July 11, 2011. Given the denial of the appeal, GMCS expected to receive a revised Demand Payment Letter restarting the repayment clock. Instead, in a letter dated May 16, 2011 (and delivered to E-Rate Central's offices on May 17th), USAC notified us we were on Red Light, threatening to dismiss three pending Forms 471 requesting a total of \$6.5 million if payment of the \$35,596.06 is not made by June 15, 2011. Apparently, our recovery was not on hold during the appeal as was reported by Ms. Beach. Instead the debt continued to age while our appeal was being worked and, once the appeal was resolved, we were quickly placed on Red Light.

As you know, the Red Light rule provides applicants 30 days to pay the debt or risk full denial of funding. However, FCC rules provide applicants 60 days to appeal a decision from USAC, so the issuance of the Red Light letter unfairly halved our time frame to appeal. This FRN dates back to Funding Year 2001 and has a long and complicated history. There is no one at the District today who was involved in the actions and decisions with respect to this FRN before 2005. With the historical information in the May 10th Administrator's Decision on Appeal, we and IBM are in a better position to craft an appeal, but we will need time. It is unfair for USAC to change FCC rules by not putting our recovery on hold during the appeal and effectively cutting our appeal time in half.

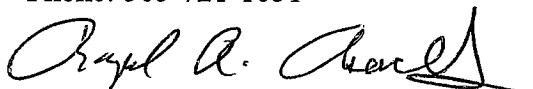
Therefore, we request that the FCC vacate USAC's May 16, 2011, Second Demand Payment Letter and Notification of Withholding Action. We also request the FCC consider this correspondence as an appeal of USAC's May 10, 2011, Administrator's Decision on Appeal. We will supplement this correspondence with a detailed appeal of the May 10th letter by the 60-day deadline of July 11th.

Thank you for your consideration of this request.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Raymond R. Arsenault".

Raymond R. Arsenault
Superintendent
Phone: 505-721-1051

A smaller, more compact handwritten signature in black ink, appearing to read "Raymond R. Arsenault".

THANK YOU

George McDonald

From: Cyndi Beach [cbeach@usac.org]
Sent: Thursday, March 31, 2011 4:16 PM
To: 'George McDonald'
Cc: 'Bart Stanley'; SL Andy Dick
Subject: RE: Gallup 2001 Demand Payment Letter

George,

The letters were ships passing in the night, you appealed the “partially approved appeal”, while we issued the 1DPL based on the appeal decision. So you do not need to do anything, we now have this FRN on USAC Appeal Hold.

Regards,

Cyndi

From: George McDonald [<mailto:gmcdonald@e-ratecentral.com>]
Sent: Monday, March 28, 2011 2:29 PM
To: Cyndi Beach
Cc: 'Bart Stanley'
Subject: RE: Gallup 2001 Demand Payment Letter

Cyndi,

I’m checking back in on this. I’m home after the filing window close and have made a better scan of the letter (see attached).

I’m hoping you can give me some guidance on this letter – do I need to act even though we’ve already appealed a letter for the same FRN and suggesting recovery of the amount, although for a different reason?

Thanks and hope you are well.

George

From: George McDonald [<mailto:gmcdonald@e-ratecentral.com>]
Sent: Wednesday, March 16, 2011 7:49 PM
To: 'Cyndi Beach'
Cc: 'Bart Stanley'
Subject: Gallup 2001 Demand Payment Letter

Cyndi,

We received the attached DPL today for an FY 2001 FRN for Gallup-McKinley County Schools. It refers to a COMAD letter that we never received. Could you send me a copy?

We did receive an Administrator’s Decision on Appeal Letter that seemed to be a precursor to a similar recovery for the same FRN and we sent an appeal of that letter to SLD yesterday. I am attaching that letter and appeal.

I’m wondering if there is some mistake here – the COMAD issue is about the discount rates and the Decision Letter on Appeal is about a service substitution, but they each result in the same recovery amount – to the penny.

Thanks for your assistance.

George